

Date Mailed: 9/23/04

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Annual Reports for the Year Ended December 31, 2003, Filed by Alternative
Telecommunications Utility-Telecommunications Resellers on a Confidential Basis

INFORMATION REGARDING CONFIDENTIAL FILINGS

Introduction

This information is being provided to assist Alternative Telecommunications Utility-Telecommunications Resellers (resellers) who wish to request confidential handling of portions of their Alternative Telecommunications Utility-Telecommunications Reseller (RES) annual reports. The statutory filing date for the RES annual report covering 2003 calendar year operations is April 1, 2004; 309 resellers are required to file this report for the 2003 calendar year. The Commission has the authority to compel the filing of this annual report pursuant to Wis. Stat. § 196.25.

Filing Process

The 2003 RES annual report is contained in the 2003 Web Annual Report Program for ARW, CMR, CTV, and RES Providers. With the exception of the primary utility contact (located at the utility address), the number of Lifeline customers at December 31, 2003, and the number of Link-Up customers connected during the 2003 calendar year, the 2003 RES annual report¹ essentially requires information identical to that requested in the 2002 RES annual report.

¹ The 2003 RES annual report also requires resellers to report all dollar amounts to the nearest thousand dollars. (Example: \$130,000 should be reported as \$130.)

Information Regarding 2003 RES Annual Report Confidential Filings

For the 2003 RES annual report program, which was released on February 9, 2004, the Commission has continued a paperless filing process and has discontinued the requirement to download a program to the annual report user's computer. Each reseller required to file the 2003 RES annual report was sent a letter dated February 9, 2004, containing a password to be used to access the RES annual report program for completion and filing of the 2003 and subsequent years' RES annual reports. The 2003 RES program does not contain capability allowing users to file any portion of the report on a confidential basis. Unless a reseller desires additional provisional confidential treatment of any portion of the 2003 RES annual report, all 2003 RES annual report filings must be accomplished via the RES web-based application.²

Filing of the 2003 RES annual report using the web-based application will result in the entire report being available to the public. Any reseller wishing to file a portion of its 2003 RES annual report on a confidential basis should contact Commission staff concerning the particular procedures which must be followed for a manual annual report filing. Resellers wishing confidential handling must submit a request, in accordance with Wis. Admin. Code § PSC 2.12, with their manual filing. Subsequent to such manual filing, the Commission will issue a confidentiality determination in accordance with the rule. If the Commission denies a request for confidential handling, the information will be handled confidentially until 14 days after the determination, after which it will be posted on the Commission's website along with the remainder of the annual report.

² Commission web-page instructions direct that if a user desires additional provisional confidential treatment above that provided in the RES annual report form, the user should not electronically file the annual report. Instead, the user should contact Commission staff concerning required manual filing procedures.

Information Regarding 2003 RES Annual Report Confidential Filings

Previous Confidentiality Rulings

Three resellers requested confidential handling of some or all of the following information on pp. 6 and 10 of the 2002 RES annual report. In particular, the resellers sought confidential treatment (including trade secret status) for the calculation of assessable revenues for remainder and telephone relay assessment purposes; cost of plant in Wisconsin utilized by the reseller for provision of telecommunications services in Wisconsin; cost basis (including capital leases) of transmission facilities (excluding switches) in Wisconsin, including wire, cable, fiber optics or radio, and associated electronics owned, operated, managed or controlled by the telecommunications reseller, if in excess of \$400,000 as of December 31, 2002; and gross operating revenues, minutes of use and average number of customers generated by the provision of intrastate Wisconsin telecommunications services³ information on lines 1-5, 6, 7, and 8-10, respectively, on p. 6, Assessable Revenues; and the cost of plant portion of the schedule footnote shown on p. 10, Schedule and Report Notes, applicable to p. 6⁴ in their respective 2002 RES annual reports. For the reasons stated in a Confidentiality Determination dated July 8, 2003, confidential treatment and trade secret status for the above specifically identified data was granted on a provisional basis, without consideration of the merits of the arguments of any company contained in respective affidavits accompanying the 2002 RES annual reports, based on the then-pending status of related court cases.

³ The revenue data contained in this item is used to determine assessable revenues for intrastate universal service fund (USF) assessment purposes.

⁴ While TTI National, Inc. and Telecom USA did not explicitly seek confidential treatment of selected information included on p. 6 (e.g., cost of plant in Wisconsin utilized by the reseller for provision of telecommunications services in Wisconsin, and cost basis (including capital leases) of transmission facilities (excluding switches) in Wisconsin, including wire, cable, fiber optics or radio, and associated electronics owned, operated, managed or controlled by the telecommunications reseller, if in excess of \$400,000 as of December 31, 2002), they did seek confidential treatment of a portion of the schedule footnote for p. 6 shown on p. 10 pertaining to each company's respective cost of plant amount.

Information Regarding 2003 RES Annual Report Confidential Filings

In a Confidentiality Determination dated April 21, 2004, the Commission granted both confidential treatment and trade secret status to selected portions of all three companies' 2002 RES annual report filings.⁵

In 2002, nine court cases were filed concerning previous manually-filed annual reports. The nine cases were subsequently consolidated into two cases. One court case resulted in a decision favorable to the Commission's determinations; the other court case resulted in an adverse decision. In a Confidentiality Determination dated May 11, 2004, the Commission granted confidential treatment and, where claimed, trade secret status to selected portions of 2001 manually-filed annual reports.

Resellers requesting confidential handling of portions of their 2003 RES annual reports should be aware that, under Wis. Admin. Code § PSC 2.12, they have the burden of establishing a reasonable basis to believe that the information is exempt from disclosure under one of the grounds listed in Wis. Admin. Code § PSC 2.12(3)(a).

Dated at Madison, Wisconsin, September 23, 2004

For the Commission:

/s/ Gary A. Evenson
Gary A. Evenson
Administrator
Telecommunications Division

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⁵ The third company affected by this issue is ACC National Long Distance Corporation.